



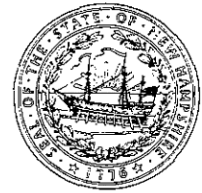
State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3503 FAX (603) 271-2867

PLEASE NOTE: Effective September 1, 2003, the street address is 29 Hazen Drive.

September 29, 2003



Ronald Mitchell  
d/b/a Stanley Steemer  
18 Cote Avenue  
Goffstown, NH 03045

Re: Docket No. AF 03-018 - Administrative Fine by Consent Agreement

Dear Mr. Mitchell:

Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in this matter executed by Harry T. Stewart, P.E., Water Division Director, and accepted by Commissioner Michael P. Nolin on September 26, 2003. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

**COPY**  
Michael Schifani,  
Legal Assistant

cc: Harry T. Stewart, P.E., Director, Water Division  
Gretchen Rule, DES Legal Unit  
Susan Weiss Alexant, Hearings and Rules Attorney  
Mark R. Harbaugh, DES Legal Unit  
John R. Bush, P.E., Administrator, DES/WD/WWEB  
Mary Jane Meier, DES/WD/WWEB  
Sharon Ducharme, DES/WD/WWEB  
Joy Hilton, USAEPA, Region I



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DEPARTMENT OF ENVIRONMENTAL SERVICES

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Ronald Mitchell  
d/b/a Stanley Steemer  
18 Cote Avenue  
Goffstown, NH 03045

ADMINISTRATIVE FINE  
BY CONSENT

No. AF 03-018

### I. INTRODUCTION

This Administrative Fine by Consent is issued by the Department of Environmental Services, Water Division (the "Division"), to Ronald Mitchell, d/b/a Stanley Steemer with the consent of Ronald Mitchell, pursuant to RSA 485-A:22, V. This Administrative Fine by Consent is effective upon signature by all parties.

### II. PARTIES

1. The Department of Environmental Services, Water Division ("DES") is a duly constituted administrative agency of the State of New Hampshire, having main offices at 6 Hazen Drive, Concord, NH.
2. Ronald Mitchell, an individual doing business as Stanley Steemer Carpet Cleaner ("Stanley"), owns and operates a residential and commercial carpet cleaning contracting business having a mailing address of 18 Cote Avenue, Goffstown, NH 03045. According to the Secretary of State's Office, this business is no longer registered with the State of New Hampshire.

### III. BACKGROUND

1. Pursuant to RSA 485-A:13 and related sections, DES regulates the discharge of pollutants to surface waters under a permit system. As part of this program, the Commissioner of DES ("Commissioner") has adopted Env-Ws 401 – 405 relating to permits and has adopted Env-Ws 1700 to establish water quality standards for the state's waters.
2. Pursuant to RSA 485-A:22, V, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations relating to this program. Pursuant to this section, the Commissioner has adopted Env-C 603 to establish the schedule of fines for such violations.
3. Stanley owns and operates a residential and commercial carpet cleaning franchise, located in Goffstown, NH.
4. Stanley does not possess a National Pollutant Discharge Elimination System ("NPDES") permit.
5. The Piscataquog River is a Class B surface water as defined in RSA 485-A:8, II.

6. On September 12, 2002, DES personnel received a complaint of an unpermitted discharge of carpet and upholstery cleaning wastewater from a Stanley vehicle to a storm drain located in the parking lot of the Cote Industrial Park located along Cote Avenue, Goffstown, NH (the "Site").
7. On September 13, 2002, DES personnel visited the site along with Edmond Neveu, Health Officer, Town of Goffstown; Lance Cote, Owner, Cote Industrial Park; Ronald Rheume, Representative of Cote Industrial Park; and Roger Demers, Stanley Office Manager.
8. During the September 13, 2002 site visit, Ed Neveau presented an August 26, 1999 photograph to DES that clearly shows a Stanley vehicle (License Plate No. Stan-4) discharging wastewater through a pipe located under the van's rear bumper into a storm drain.
9. On September 13, 2002, DES personnel met with Mr. Roger Demers at the Stanley office and Mr. Demers provided information on Stanley's disposal methods for wastewater and spent cleaning solutions.
10. Mr. Demers explained that at the end of each day, approximately 5 p.m., the driver positions the van over the storm drain and drains the 2 to 3 gallons of wastewater into the storm drain through a fine mesh screen.
11. On September 13, 2002, DES personnel informed Mr. Demers that the disposal practice he described is illegal, and instructed Stanley is to immediately cease such activity. DES personnel provided Mr. Demers with several alternative disposal methods, and described the advantages and disadvantages associated with each method. DES personnel requested that also the wastewater be collected in drums, until a viable alternate disposal system is in place.
12. Discharge from the catch basin at the Cote Industrial Park flows to a detention pond located at the entrance of the Cote Industrial Park, and ultimately feeds a rivulet leading to the Piscataquog River.
13. On September 13, 2002, DES personnel collected samples from the water contained in the catch basin, and submitted the samples to the DES laboratory for analysis.
14. Laboratory analyses of the storm drain samples detected the presence of total petroleum hydrocarbons ("TPH") at 15 mg/l and acetone, toluene, and p-Isopropyltoluene at respective concentrations of 110 µg/l, 110 µg/l and 13 µg/l. The biochemical oxygen demand ("BOD") concentration analysis was not performed due to the interfering chemical content of the sample. A copy of the laboratory analytical report is attached.
15. DES issued a Notice of Findings ("Notice") dated January 8, 2003 and requested additional information relative to Stanley's waste disposal practices in the past five years, exact discharge locations for all discharges, geographic service area, hours of operation, total volume in gallons of the wastewater collection tanks in the service vehicles, total number of service vehicles in use per day on a monthly average for each month over the past 5 years, total volume of discharged wastewater each day, and Material Safety Data Sheets for all chemicals and cleaning solutions used.
16. Stanley provided only a portion of the information requested in the Notice. Including information relative to the two discharge methods currently in use (developed by the Stanley home office) described as the lawn discharge system and the toilet adapter system. Material Safety Data Sheets (MSDS) were provided for the chemicals and cleaners used in the process.

17. DES issued a second Notice of Findings dated March 26, 2003 requesting Stanley to provide information on the frequency and exact locations for all storm drains used for discharge; the time frame when the discharge policy was revised to using the lawn and/or toilet adapter system; and greater detail and additional information to supplement the description of the discharge practices used by Stanley in the past five years.

18. In Stanley's response letter to DES dated April 24, 2003, Stanley stated that GZA GeoEnvironmental, Inc. (GZA) was hired to assist Stanley with preparing a response. Stanley provided the location of the two catch basins inside the Cote Industrial Park where Stanley discharged wastewater periodically since January 1998, until adopting a new discharge policy on September 13, 2002. Stanley provided the information DES requested and defined the estimated quantity of wastewater discharged to the catch basins. Stanley also submitted a copy of Stanley's "Water Discharge Policy". Stanley reported that the carpet cleaning wastewater is commonly managed at the customers' locations.

19. In a letter dated April 24, 2003, Stanley provided the following information relative to its discharge practices. Stanley used two storm drains inside the Cote Industrial Park for discharging the wastewater. Truck wastewater discharge volume is between 10 and 20 gallons per day. The 10 gallon per day figure is shown in parenthesis.

April to November: 160 days (based on a 5 day workweek)  
 $160 \text{ days} \times 3 \text{ trucks} \times 20 \text{ gal/day} = 9,600 \text{ gal (4,800 gal)}$

December to March: 80 days (based on a 5 day workweek)  
 $80 \text{ days} \times 2 \text{ trucks} \times 20 \text{ gal/day} = 3,200 \text{ gal (1,600 gal)}$

For the period January 1998 to September 13, 2002 discharge to the storm drains occurred. The total volume for that period is given by:

For 20 gal/day discharge-  $12,800 \text{ gal/year} \times 4 \text{ years} = 51,200 \text{ gal}$   
Add year 2002: 3 months with 2 trucks = 2,400 gal  
5.5 months with 3 trucks = 6,600 gal. (Total 60,200 gal)

For 10 gal/day discharge-  $6,400 \text{ gal/year} \times 4 \text{ years} = 25,600 \text{ gal}$   
Add year 2002: 3 months with 2 trucks = 1,200 gal  
5.5 months with 3 trucks = 3,300 gal. (Total 30,100 gal)

The total volume range is between 30,100 and 60,200 gallons discharged.

20. RSA 485-A:13, I(a) provides that "it shall be unlawful for any person or persons to discharge or dispose of any sewage or waste to the surface water or groundwater of the state without first obtaining a written permit from the DES."

21. For the period January 1998 to September 13, 2002, Stanley discharged a volume of wastewater in the range between **30,100 and 60,200 gallons** to the storm drain system whose discharge ultimately reaches the Piscataquog River surface waters via an unnamed stream.

#### IV. ALLEGATIONS

1. Stanley violated RSA 485-A:13 by discharging wastewater to the surface water of the State without first obtaining a written permit from DES.

#### V. ADMINISTRATIVE FINES, PAYMENT, WAIVER OF HEARING

1. For violating RSA 485-A:13, I(a), Env-C 603.05(a) specifies a fine of \$2,000 per 5,000 gallons or portion thereof discharged or \$2,000 per hour or portion thereof that the sewage or other wastes are discharged, whichever is greater. Based on average monthly discharge records, Stanley discharged approximately 45,150 gallons of carpet cleaning wastewater into the storm drains of the Cote Industrial Park and ultimately into the Piscataquog River.
2. The total administrative fine sought by DES for the violations noted above is \$18,060.
3. Of the total \$18,060 fine, DES agrees to waive \$4,515.
4. Of the remaining \$13,545 fine, DES agrees to suspend \$7,545 contingent upon:
  - a. Stanley complying with environmental laws administered by DES for two years from the effective date of this agreement; and
  - b. Stanley completing the "Registration and Notification Form for Floor Drains and Discharges to Groundwater" on an annual basis as required by NH Code of Administrative Rules Env-Ws 1500, Groundwater Discharge Permit and Registration Rules, Section 1508.01.
5. Stanley agrees to pay the remaining \$6,000 as follows:
  - a. \$1,000 in cash due upon execution of this agreement by Stanley; and
  - b. \$5,000 to fund a Supplemental Environmental Project consisting of developing a business and community information outreach program. The program as described will include developing an Environmental Fact Sheet entitled Management of Carpet Cleaning Wastewater in New Hampshire by **November 21, 2003**; distributing the Fact Sheet to all carpet cleaning businesses listed in the Verizon SuperPages within New Hampshire by **January 30, 2004**; arranging, sponsoring and videotaping a two hour presentation to interested carpet cleaning businesses in New Hampshire by **March 31, 2004**. Two copies of the videotape shall be made available to DES by **April 30, 2004**.
6. Payment made under Paragraph V. 5 and any payment that becomes due pursuant to Paragraph V. 4 shall be made by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit  
Attention: Michael Sclafani, Legal Assistant  
P.O. Box 95  
Concord, NH 03302-0095

7. If any payment is made by check that is returned due to insufficient funds, pursuant to NH RSA 6:11-a a DES may charge a fee in the amount of 5% of the face amount of the check or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check, to cover the costs of collection.

8. By executing this Administrative Fine by Consent, the owner waives all rights to a hearing on or any appeal of the administrative fines identified in Paragraphs V.1 through V.5, and agrees that this Administrative Fine by Consent may be entered into and enforced by a court of competent jurisdiction.

9. The effective date of this Administrative Fine by Consent will be the date on which the document is signed by the owner of Stanley, the Director of the Water Division, and the Commissioner.

10. No failure by DES to enforce any provision of this Administrative Fine by Consent after any breach or default will be deemed as a waiver of DES' rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this agreement on any further breach or default.

Stanley Steemer

**COPY**

By: Ronald Mitchell  
Duly Authorized

9-22-03

Date

Department of Environmental Services

**COPY**

Harry T. Stewart, P.E. Director  
Water Division

9/24/03

Date

**COPY**

for Michael P. Nolin, Commissioner

9/26/03

Date

Attachments: Stanley Proposed SEP outline dated June 5, 2003  
Lab Results dated September 13, 2002

cc: Mark Harbaugh - DES Legal Unit  
John R. Bush, P.E. - Administrator, DES/WD/WWEB  
Sharon L. Ducharme, P.E. - Supervisor, DES/WD/WWEB  
Joy Hilton - USEPA, Region I